

# SENATE RECORD VOTE ANALYSIS

104th Congress  
1st Session

Vote No. 421

September 13, 1995, 5:50 p.m.  
Page S-13522 Temp. Record

## WELFARE REFORM ACT/Welfare Administration by Religious Groups

**SUBJECT:** Family Self-Sufficiency Act of 1995 . . . H.R. 4. Division 2 of the Cohen amendment No. 2586 to the Dole modified perfecting amendment No. 2280 to the committee substitute amendment.

### ACTION: AMENDMENT AGREED TO, 59-41

**SYNOPSIS:** As reported with a committee substitute amendment, H.R. 4, the Family Self-Sufficiency Act of 1995, will overhaul six of the Nation's ten largest welfare programs.

The Dole modified perfecting amendment would strike the provisions of the committee substitute amendment and insert in lieu thereof substitute provisions, entitled "The Work Opportunity Act of 1995."

**Division 2 of the Cohen amendment** would strike the Dole amendment's prohibition on a State requiring a religious organization that contracts to provide welfare services under this Act to set up a separate corporate entity to provide those services. (Division 1, which was agreed to by voice vote, added that religious organizations could contract to administer welfare programs under this Act "so long as they administered the programs consistent with the establishment clause of the Constitution.")

**Those favoring** the amendment contended:

The Cohen amendment has been offered to encourage States to contract with religious organizations to provide welfare services, not to discourage such contracting. The Dole amendment would forbid States from requiring religious organizations to set up separate corporate entities to administer welfare programs. This prohibition would preclude some religious organizations from winning contracts. The reason is that the Supreme Court has ruled that it is unconstitutional for a religious organization to administer Federal funds if it is "permeated with a sectarian influence." If a State thought that a given religious group had too religious an atmosphere to pass constitutional muster, it would not give it a contract for fear of lawsuits, even if it thought that it was otherwise the best choice for administering a welfare program. The Cohen amendment would fix this problem by allowing States to require religious organizations to set up separate corporate entities for running Federal welfare programs. States would not have to require such

(See other side)

YEAS (59)			NAYS (41)			NOT VOTING (0)	
Republicans (14 or 26%)	Democrats (45 or 98%)		Republicans (40 or 74%)	Democrats (1 or 2%)		Republicans (0)	Democrats (0)
Brown	Akaka	Hollings	Abraham	Hatfield	Lieberman		
Campbell	Baucus	Inouye	Ashcroft	Helms			
Chafee	Biden	Johnston	Bennett	Hutchison			
Cohen	Bingaman	Kennedy	Bond	Inhofe			
Domenici	Boxer	Kerrey	Burns	Kempthorne			
Jeffords	Bradley	Kerry	Coats	Kyl			
Kassebaum	Breaux	Kohl	Cochran	Lott			
Lugar	Bryan	Lautenberg	Coverdell	Mack			
Packwood	Bumpers	Leahy	Craig	McCain			
Simpson	Byrd	Levin	D'Amato	McConnell			
Snowe	Conrad	Mikulski	DeWine	Murkowski			
Specter	Daschle	Moseley-Braun	Dole	Nickles			
Stevens	Dodd	Moynihan	Faircloth	Pressler			
Thomas	Dorgan	Murray	Frist	Roth			
	Exon	Nunn	Gorton	Santorum			
	Feingold	Pell	Gramm	Shelby			
	Feinstein	Pryor	Grams	Smith			
	Ford	Reid	Grassley	Thompson			
	Glenn	Robb	Gregg	Thurmond			
	Graham	Rockefeller	Hatch	Warner			
	Harkin	Sarbanes					
	Heflin	Simon					
		Wellstone					

#### EXPLANATION OF ABSENCE:

- 1—Official Business
- 2—Necessarily Absent
- 3—Illness
- 4—Other

#### SYMBOLS:

- AY—Announced Yea
- AN—Announced Nay
- PY—Paired Yea
- PN—Paired Nay

separate corporate entities; they would be free to require them only when they thought necessary. We believe this amendment has merit, and our pleased to give it our support.

**Those opposing** the amendment contended:

The Cohen amendment would discriminate against religious organizations. Only religious organizations would have to create separate corporate entities in order to qualify for receiving contracts to administer programs using Federal welfare funds. The stated purpose of this amendment would be to guard against lawsuits. However, nothing short of a constitutional amendment could stop a constitutional challenge to a statute or a public program. Those Senators who suggest that the Cohen amendment would protect religious organizations from suits by groups like the American Civil Liberties Union (ACLU) must be aware that it could not possibly provide such protection.

The ACLU, we imagine, would be pleased with the Cohen amendment because the amendment would actually go beyond current Supreme Court rulings on the limits that must be put on a religious group's administration of public funds. In *Bowen v. Kendrick*, the Supreme Court held that the Adolescent Family Life Act did not violate the first amendment simply because it expressly provided that religious, not-for-profit organizations could administer funds under the Act. Similarly, we note for our colleagues that the Refugee Resettlement Act (for which many of them voted) has been in effect since 1980, giving grants through both religious and secular providers. These two Acts do not require separate corporate entities to administer public funds; these two Acts do not treat religious organizations as second-class Americans.

As a matter of principle, we should not burden the community of faith in the United States with rules that do not apply to any other citizens. Additionally, as a practical matter, we should not make it more difficult for religious organizations to be involved in welfare reform because those organizations have frequently had great success in moving people from dependency to independence. We therefore strongly oppose the Cohen amendment.